

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MASHAMA HILL,

Plaintiff,

v.

ORDER
07-CV-357S

PAUL CURCIONE, JEFF CHAWER, TAMMY
WILLIAMS, CHRIS ATKINS,¹ and JAMES
HOHENSEE,

Defendants.

1. On June 5, 2007, Plaintiff commenced this civil rights action against Defendants under 42 U.S.C. § 1983. On August 21, 2007, Plaintiff filed a Motion for a Preliminary Injunction. (Docket No. 5.) On September 4, 2007, this Court referred this case to the Honorable Hugh B. Scott, United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B). (Docket No. 6.) On October 5, 2007, Defendants Aikins and Hohensee filed a Motion to Dismiss. (Docket No. 9.)

2. On February 28, 2008, Judge Scott filed a Report and Recommendation, in which he recommends that (1) Plaintiff's Motion for a Preliminary Injunction be denied, and (2) the Motion to Dismiss filed by Defendants Aikins and Hohensee be granted. (Docket No. 18.) On March 7, 2008, Plaintiff filed objections to Judge Scott's Report and Recommendation. (Docket No. 19.)

¹This defendants correct name is Christopher Aiken.

3. This Court has carefully reviewed the Report and Recommendation, the pleadings and materials submitted by the parties, and Plaintiff's objections, and will accept Judge Scott's recommendations.

4. An inmate does not have a right to the medical treatment of his choice as long as the medical treatment he receives is adequate. See Estelle v. Armstrong, 429 U.S. 97, 106-07, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (prisoners not entitled to treatment by every medical alternative as long as treatment is reasonable); Dean v. Coughlin, 804 F.2d 207, 215 (2d Cir. 1986); McCloud v. Delaney, 677 F.Supp. 230, 232 (S.D.N.Y. 1988). Although Plaintiff includes general allegations in his Complaint that he was denied pain medication, his specific allegations against Defendants Aiken and Hohensee are that they prescribed him Motrin, which he believes is insufficient in light of his pain. (Complaint, ¶¶ 19–21.) And the relief he seeks by way of a preliminary injunction is "sufficient pain medication and a nerve conduction study (EMG)." (Docket No. 5.) For purposes of the motions presently before this Court, it is clear that Plaintiff simply disagrees with the course of treatment provided by Defendants, and specifically Defendants Aiken and Hohensee. Since this does not raise a claim under the Eighth Amendment, this Court concurs in Judge Scott's conclusion that Plaintiff's Motion for Preliminary Injunction should be denied, and the Motion to Dismiss filed by Defendants Aiken and Hohensee be granted.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 18) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that Plaintiff's Motion for a Preliminary Injunction (Docket No. 5) is DENIED.

FURTHER, that the Motion to Dismiss filed by Defendants Aiken and Hohensee (Docket No. 9) is GRANTED.

FURTHER, that the Clerk of the Court is directed to terminate Defendants Aiken and Hohensee as defendants in this case.

SO ORDERED.

Dated: March 19, 2008
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge